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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,934	03/02/2004	Jay S. Walker	3718582-00118	3244

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EXAMINER	
RUSTEMEYER, MALINA K	

ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
02/22/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

Office Action Summary	Application No.	Applicant(s)	
	10/790,934	WALKER ET AL.	
	Examiner	Art Unit	
	Malina K. Rustemeyer	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 February 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,4,6-12 and 14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3,4,6-12 and 14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2/04/10*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/4/10 has been entered.

Response to Amendment

2. This office action is in response to applicant's response filed on 7/23/09. Applicant amends claims 1, 3, 4, 6-12 and 14, cancels claims 2, 5, 13, 33 and 34 and responds to rejections. Claims 1, 3, 4, 6-12, and 14 are pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 4, and 6-10, are rejected under 35 U.S.C. 102(e) as being anticipated by Taylor (US 2002/0132660 A1).

Concerning claim 1, Taylor teaches a method of operating a gaming system, said method comprising: (a) at a first point in time, causing at least one processor of a wagering game device to execute a plurality of instructions **[0004]**, (i) determine a current time **[0053]**; and determine a reference time **[0053]**. The current time, is when the player enters into the bet, the reference time is the period of time the player is entering into the bet. In this example, it would be 60 seconds from the time the player starts the game. Taylor teaches wherein, at the first point in time, the determined reference time is different than the determined current time **[0053]**; and (b) at a second, different point in time **[0057]**, causing the at least one processor to execute the plurality of instructions to: (i) determine that the second point in time has a predetermined relationship to the determined reference time **[0057]**; and (ii) cause at least one display device to display a first play of a bonus game (extended time), said first play of the bonus game having a first average expected payout which is based, at least in part, on the second point in time having the predetermined relationship to the determined reference time **[0057-0058]**; and (c) at a third, different point in time, causing the at least one processor to execute the plurality of instructions to: (i) determine a triggering event has occurred, the triggering event occurring independent of the third point in time **[0060]**; and (ii) cause the at least one display device to display a second, different play of the bonus game, said second, different play of the bonus game having a second, different average expected payout **[0060]**.

Concerning claim 3, Taylor teaches wherein determining a reference time includes determining a beginning of a next hour **[0065]**.

Concerning claim 4, Taylor teaches wherein determining a reference time includes determining a time that is a predetermined number of minutes before a beginning of a next hour **[0065]**. If the player enters into a bet a predetermined number of minutes before the next hour, and places a bet to play for an hour, then the reference time a time that is a predetermined number of minutes before a beginning of a next hour.

Concerning claim 6, Taylor teaches determining whether a player has satisfied at least one criterion; wherein the display of said first play of said bonus game is based, at least in part, on the player satisfying the at least one criterion **[0057-0060]**.

Concerning claim 7, Taylor teaches determining whether a player has satisfied at least one criterion includes determining whether the player has made a specified number of handle pulls at the wagering gaming device **[0062]**.

Concerning claim 8, Taylor teaches determining whether a player has satisfied at least one criterion includes determining whether the player has made a specified number of handle pulls at the wagering game device within a time interval beginning a specified period of time prior to the determined reference time, and ending with the first-determined reference time **[0062]**.

Concerning claim 9, Taylor teaches wherein determining whether a player has satisfied at least one criterion includes determining whether the player has made a specified number of handle pulls at the wagering game device within a time interval

beginning one hour prior to the determined reference time, and ending with the determined reference time **[0062/0065]**.

Concerning claim 10, Taylor teaches determining whether a player has satisfied at least one criterion includes determining whether the player has wagered, at a gaming device, an amount of currency whose aggregate value is at least a specified value, within a time interval beginning a specified period of time prior to the determined reference time, and ending with the determined reference time **[0065]**. The amount wagered, directly corresponds to the period of time.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 11, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (US 2002/0132660 A1) in view of Acres et al. (US 5655961).

Concerning claims 11, 12 and 14, Taylor is silent on player tracking capabilities. Acres et al. teaches determining whether a player has satisfied at least one criterion includes determining whether the player has: paid in taxes to the wagering game device, an amount of currency whose aggregate value is at least a specified value, within a time interval beginning a specified period of time prior to the reference time, and ending with the reference time and/or a specified average rate of play at a gaming device within a time interval beginning a specified period of time prior to the reference time, and ending with the reference time, and/or paid a fee to a gaming device in exchange for insurance that the player will be provided entry into a bonus game **[column 3, lines 13-37 and column 25, line 38- column 26, line 24]**. Acres et al. teaches improved player tracking by recording each and every machine transaction including time of play, machine number, duration of play, coins in, coins out, hand paid jackpots and games played. The player tracking is conducted over the same network as the accounting data is extracted. It would be obvious to substitute Acres player tracking system into the Taylor gaming system to allow the invention to provide bonusing to certain individual players as well as during certain times. As with standard player tracking, the above-described system monitors and reports how many coins are played by each player. The system according to the invention, however, also includes the ability to record how long each player spends at each machine and the number of coins won, games played, and hand jackpots won by each player. Examiner takes

official notice of taxes paid to a gaming device, determining an average rate of play, and paying insurance are well known to one of ordinary skill in the art. It would be obvious substitute these features into the Taylor gaming system to provide extra fees to the casino, and measure player progress. Furthermore the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Examiner's Note

8. The referenced citations made in the rejection(s) above are intended to exemplify areas in the prior art document(s) in which the examiner believed are the most relevant to the claimed subject matter. However, it is incumbent upon the applicant to analyze the prior art document(s) in its/their entirety since other areas of the document(s) may be relied upon at a later time to substantiate examiner's rationale of record. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed…." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

Response to Arguments

9. Applicant's arguments with respect to claims 1, 3, 4, 6-12, and 14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Malina K. Rustemeyer whose telephone number is (571)270-1297. The examiner can normally be reached on Mon. - Thurs., 7 AM - 6 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit 3714

Malina K. Rustemeyer
Examiner
Art Unit 3714

/M. K. R./
Examiner, Art Unit 3714